

THIS ORDER IS SIGNED AND ENTERED.

Dated: December 2, 2020




Hon. G. Michael Halfenger
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

In re:

Engineered Propulsion Systems, Inc.,

Debtor.

Case No. 20-11957-gmh
Chapter 11

ORDER AUTHORIZING ASSET SALE UNDER 11 U.S.C. §363

The debtor in possession filed a motion to sell its assets under 11 U.S.C. §363(b).^{*} ECF No. 155. The court held hearings on the motion on November 9, November 20, and November 30, 2020. Several interested parties and the United States trustee objected to the bidding procedures and other aspects of the motion's proposed auction. Ultimately, only EPS Engineered Propulsion Systems, Inc. ("EPS") submitted a bid. The debtor now seeks authorization to sell its assets to EPS pursuant to the Asset Purchase Agreement attached as Exhibit A to the debtor's motion, as modified by agreement of the debtor and EPS on the record at the November 30, 2020 hearing. ECF No. 155, at 17–65. The

^{*} The debtor titled the motion, "Motion for Order (I) Authorizing Debtor to Sell All of Its Assets Free and Clear of Liens, Claims, Interests and Encumbrances; (II) Approving Bid Procedures; (III) Approving Dates and Deadlines Relating to the Debtor's Sale Process; and (IV) Granting Related Relief." This order uses "motion" to refer to it.

sale process and the record support the conclusions that (1) the parties have conducted the sale in good faith, generally, and as that term is used in 11 U.S.C. §363(m), and (2) the sale is in the debtor's and the estate's best interests. After notice and hearing, no one has contended otherwise, and no one challenges the debtor's ability to sell its assets free and clear of other entities' interests in the assets pursuant to 11 U.S.C. §363(f).

Accordingly, for these reasons and those stated at the hearings on the motion, including the November 30, 2020 hearing, it is HEREBY ORDERED:

1. Pursuant to 11 U.S.C. §363(b) & (f) the debtor is authorized to sell its assets to EPS under the terms of the Asset Purchase Agreement attached as Exhibit A to the motion, and the related attachments filed on November 4, 2020 (ECF Nos. 155, at 17–65 and 185), as modified by paragraph 2 of this order. Unless otherwise provided in the Asset Purchase Agreement as modified by this order, the sale is, as §363(f) provides, “free and clear of any interest in such property of an entity other than the estate”.
2. The Asset Purchase Agreement is modified to require the buyer, EPS, to pay in full the holders of senior obligations identified in paragraph 85(c)(ii)-(iv) of the motion, including without limitation amounts owed to First National Community Bank, on the closing date of the sale, thus nullifying the Agreement's option that the buyer may instead assume those obligations.
3. While the sale is authorized under §363(b) of the Bankruptcy Code and has the effects provided in §363(f) & (m), the sale remains subject to all applicable non-bankruptcy laws and regulations.

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